



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

January 5, 2018

Trina Owens, Chairman of the Board
Red Robins Academy of Learning, Inc.
3311 Kimball
Memphis, Tennessee 38111-3846

Dear Ms. Owens,

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced on-site review of the Child and Adult Care Food Program (CACFP) at Red Robins Academy of Learning (Sponsor), Application Agreement 00-122, on November 16, 2017. We reviewed the Sponsor's records of reimbursement and expenditures for the period of September 2017. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

Background

CACFP Sponsors utilize meal count sheets to record the number of breakfast, lunch, supper and supplement meals served. Meals served by participating sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through DHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) system to seek reimbursement. We inspected meal count sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements.

Three types of programs were evaluated during the test month of September 2017- Childcare Centers, At-Risk and Homes. Our sample included one Childcare Center, two At-Risk sites, and one Home. We observed a meal service at Red Robin's Academy of Learning 0005 on September 6, 2017. We also observed 2 meal services for at-risk sample as follows: site 0011 September 7, 2017 and site 0012 on September 8, 2017, and one Home meal service at Home 0001 on September 13, 2017.

Our review of the Sponsor's records for the test month disclosed the following:

1. The number of participants reported in the free, reduced, and paid categories was incorrect

Condition

Childcare Center

The Claim for Reimbursement for the test month reported 65 participants in the free category, five participants in the reduced-price category, and three participants in the paid category. However, based on our review of the Sponsor's records, we verified there were 68 participants in the free category, three participants in the reduced-price category and eight participants in the paid category. The difference was based on the following:

The free category was under reported by three, the reduced category over reported by two and the paid category was under reported by five.

There were 73 participants reported in the program and 79 participants were verified.

This is a repeat finding from a previous report dated April 22, 2016.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10 (c) states, " ...In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim. ..."

Recommendation

The Sponsor should ensure that each participant is classified and reported according to the current income eligibility application for child care center participants.

2. The Sponsor reported incorrect meal counts

Condition

Child Care Center

Red Robin's Academy of Learning reported 1,219 breakfast meals, 1,219 lunch meals and 1,459 supplements served. However, our review of the Sponsor's records verified 1,236 breakfast meals, 1,236 lunch meals and 1,481 supplements prior to any meal disallowances. The Sponsor under reported the number of breakfast meals by 17, lunch meals by 17 and supplements by 22.

At- Risk Sites

Memphis Scholars Caldwell-Guthrie reported 713 supplements as served. However, our review of the Sponsor's records verified 678 supplements prior to any disallowances. The Sponsor over reported the supplements by 35.

Promise Academy Spring Hill reported 346 supplements as served. However, our review of the Sponsor's records verified 328 supplements prior to any disallowances. The Sponsor over reported the supplements by 18.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10 (c) states, " ...In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim. ..."

Recommendation

The Sponsor should ensure the meal count claimed agrees with the actual meal count documentation.

3. The Sponsor's menus did not meet USDA meal pattern requirements

At- Risk Sites

Condition

The menus for Memphis Scholar Caldwell-Guthrie and Promise Spring Hill Academy had deficiencies and listed the following:

Date	Deficient or Missing Component	Disallowed Meals
09/15/17	Memphis Scholar Caldwell-Guthrie Deficient component: 2 nd creditable component Menu Listed: Apple & Assorted Lay's Potato Chips	35 supplements
09/15/17	Promise Academy Spring Hill Deficient component: 2 nd creditable component Menu Listed: Apple & Assorted Lay's Potato Chips	18 supplements

As a result, the cost reimbursed for 53 supplements were disallowed.

Criteria

Title 7 of the Code of Federal Regulations Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20 ..."

The USDA Crediting Foods in the Child and Adult Care Food Program, page 33, states, "Snack chips such as banana, fruit, vegetable, and potato chips may not be credited as a fruit or

vegetable. However, 100% dried fruits or vegetables are creditable based on the volume served. See page 2-4 of the Food Buying Guide. ..."

Recommendation

The Sponsor should ensure all meals served meet the meal patterns established by the USDA, and menus should be reviewed to ensure they contain all required meal components to be eligible for reimbursement.

4. The number of attendance days reported by the Sponsor was incorrect

Condition

Child Care Center

The Claim for Reimbursement for the test month reported 1,459 participant days. However, our review verified 1,441 participant days.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10 (c) states, " ...In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim. ..."

Recommendation

The Sponsor should ensure the attendance is reported correctly.

5. The number of Supplements claimed exceeded the validated participant days

Condition

Child Care Center

Based on our review of the Sponsor's meal counts and attendance records, we noted that the Sponsor over reported the number of supplements claimed by 40 meals. The Sponsors claimed 1481 supplement, however the Sponsor should have not claimed more the 1,441 attendance days.

As a result, 40 supplements were disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10 (c) states, " ...In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim. ..."

Recommendation

The Sponsor should ensure the number of meals served does not exceed the attendance on any day. The Sponsor should ensure the proper documentation is on file to support the claim.

6. The Sponsor did not monitor feeding sites as required

Condition

At Risk Sites

The Sponsor conducted monitoring review at Promised Academy Spring Hill At-Risk feeding site on January 23, 2017 and May 11, 2017. The third monitoring review should have been completed by November 11, 2017 to allow no more than 6 months' time to elapse between each visit. We visited the feeding site on November 16, 2017, and the Sponsor had not completed the third monitoring visit.

The Sponsor conducted monitoring review at Memphis Scholars Caldwell-Guthrie At-Risk feeding site on January 24, 2017 and May 10, 2017. The third monitoring review should have been completed by November 10, 2017 to allow no more than 6 months' time to elapse between each visit. We visited the site on November 16, 2017 and the Sponsor had not completed the third monitoring visit.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.16 (d) "Each sponsoring organization must provide adequate supervisory and operational personnel for the effective management and monitoring of the program at all facilities it sponsors. Each sponsoring organization must employ monitoring staff sufficient to meet the requirements of paragraph (b)(1) of this section. At a minimum, Program assistance must include: ... (4)(iii) Frequency and type of required facility reviews. Sponsoring organizations must review each facility three times each year, except as described in paragraph (d)(4)(iv) of this section. In addition:

- (A) At least two of the three reviews must be unannounced;
- (B) At least one unannounced review must include observation of a meal service;
- (C) At least one review must be made during each new facility's first four weeks of Program operations; and
- (D) Not more than six months may elapse between reviews. ..."

Recommendation

The Sponsor should ensure monitoring is completed three times a year with no more than 6 months between each visit.

Homes

Our review of the home disclosed no findings.

Disallowed Costs for Independent Center

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern CACFP resulted in a disallowed cost of \$274.54.

Disallowed Costs for At-Risk Sites

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern CACFP resulted in a disallowed cost of \$92.68

Total Disallowed Costs

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern CACFP resulted in a total disallowed cost of **\$367.22**.

Corrective Action

Red Robins Academy of Learning must complete the following actions within 30 days from the date of this report:

- Login to the Tennessee Information Payment System (TIPS) and revise the claim submitted for September 2017, which contains the verified claim data from the enclosed exhibit. A copy of the claim form is attached for your use;
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director
Child and Adult Care Food Program
8th Floor Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov

Please note that the overpayment is subject to an interest charge. The interest charge will be waived if your revised claim is received by our office within 30 days from the date of this report. If the revised claim is not received by the 30-day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program
Fiscal Services
11th Floor, Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243

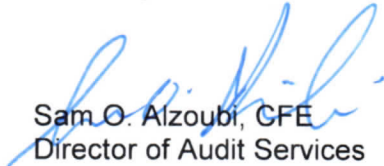
In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the overpayment identified by the monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

If the Institution decides to appeal the amount of disallowed administrative and meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Sean Baker, Audit Director 2, at 615-313-4727 or Sean.Baker@tn.gov.

Sincerely,



Sam O. Alzoubi, CFE
Director of Audit Services

Exhibits

Cc: Robin Mayweather, Executive Director, Red Robins Academy of Learning
Melanie Scott, Administrative Assistant, Red Robins Academy of Learning
Allette Vayda, Director, Child and Adult Care Food Program
Debra Pasta, Program Manager, Child and Adult Food Program
Elke Moore, Administrative Assistant 3, Child and Adult Care Food Program
Constance Moore, Program Specialist, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT A**Verification of CACFP Independent Center Claim****Name of Agency: Red Robins Academy of Learning****Review Month/Year: September 2017****Amount of CIL included with Reimbursement: \$ 283.42****Total Meal Reimbursement Received: \$ 7,264.63**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	1,459	1,441
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXXX	NA
Number of Breakfast meals Served	1,219	1,236
Number of Lunch meals Served	1,219	1,236
Number of Supplements Served	1,459	1,441
Number of Participants in Free Category	65	68
Number of Participants in Reduced-Price Category	5	3
Number of Participants in Paid Category	3	8
Total Number of Participants	73	79
Total Amount of Eligible Food Costs	XXXXXXXX	\$3,008.75
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$5,431.41

EXHIBIT B

Verification of CACFP Claim for Home Sponsor

Sponsor: Red Robin's Learning Academy
Review Month/Year: September 2017

Program Area	Reported on Claim	Reconciled by Monitoring Review
Total Tier Average Daily Attendance	12	NA
Number of Tier 1 Lunch meals Served	252	252
Number of Tier 1 PM Snacks Served	252	252
Number of Tier 1 Suppers Served	252	252
Total Number of Tier 1 Homes	1	1
Total Number of Homes	1	1

EXHIBIT C

Individual Home Review Data

Name of Home/Tier Type: Hattie Lawson Tier 1

Sponsor Reimbursement Paid to the Home: \$1,423.80

Reimbursement due based on Verified Information: \$ 1,423.80

Program Area	Reported	Reconciled by Monitoring Review
Number of Days that CACFP Food Service was operated	21	21
Reconciled Attendance	XXXXXXX	252
Tier 1 Average Daily Attendance	12	12
Number of Tier 1 Lunch meals Served	252	252
Number of Tier 1 PM Snack Served	252	252
Number of Tier 1 Suppers Served	252	252

EXHIBIT D

Verification of CACFP Sponsor of At Risk Afterschool Meals Program

Sponsor: Red Robins Academy of Learning

Review Month/Year: September 2017

Total Reimbursement: \$ 10,035.75

Program Area	Reported on Claim	Verified by Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Number of Sites	8	8
Total Attendance	1,059	1,059
Number of Supplements Served	1,059	953
Total Amount of Food Costs	XXXXXXXX	\$3,848.29
Total Amount of Eligible Food and Nonfood Costs	XXXXXXXX	\$4,754.50

EXHIBIT E

Verification of At Risk Afterschool Meals Program Individual Site Review Data

Site: Memphis Scholars Caldwell-Guthrie

Program Area	Reported	Verified by Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	713	713
Number of Supplements Served	713	643

EXHIBIT F

Verification of At Risk Afterschool Meals Program Individual Site Review Data

Site: Promise Academy Spring Hill

Program Area	Reported	Verified by Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	346	346
Number of Supplements Served	346	310



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-532-4528 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

January 5, 2018

Trina Owens, Chairman of the Board
Red Robins Academy of Learning, Inc.
3311 Kimball
Memphis, Tennessee 38111-3846

**Notice of payment due to findings disclosed in the monitoring report dated January 5, 2018, for
Child and Adult Care Food Program (CACFP).**

Institution Name:	Red Robins Academy of Learning, Inc
Institution Address:	3311 Kimball Memphis, Tennessee 38111-3846
Agreement Numbers:	00122
Amount Due:	\$367.22
Due Date:	February 6, 2018

Based on the monitoring report issued by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services- Food Programs- CACFP & SFSP management has agreed with the findings which require Red Robins Academy of Learning to reimburse the Department of Human Services disallowed cost noted in the report.

Please remit a check or money order payable to the **Tennessee Department of Human Services** in the amount of \$367.22 by the due date to:

**Fiscal Services 11th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243-1403
Tennessee Department of Human Services**

Please note that the unallowed cost / overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director, Community and Social Services - Food Programs- CACFP & SFSP at (615) 313-3769 or Allette.Vayda@tn.gov

Thank you for your attention



Tennessee Department of Human Services

Corrective Action Plan for Monitoring Findings

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.
Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: Red Robins Academy of Learning, Inc.	Agreement No. 00-122	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
---	-------------------------	--

Mailing Address: 3311 Kimball Memphis, Tennessee 38111-3846

Section B. Responsible Principal(s) and/or Individual(s)

Name and Title: Trina Owens, Chairman of the Board	Date of Birth: / /
--	--------------------

Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 1/5/2018	Corrective Action Plan: 1/5/2018
-----------------------------	----------------------------------

Section D. Findings

Findings:

1. The number of participants reported in the free, reduced, and paid categories was incorrect
2. The Sponsor reported incorrect meal counts
3. The Sponsor's menus did not meet USDA meal pattern requirements
4. The number of attendance days reported by the Sponsor was incorrect
5. The number of Supplements claimed exceeded the validated participant days
6. The Sponsor did not monitor feeding sites as required

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

Measure No. 1: The number of participants reported in the free, reduced, and paid categories was incorrect

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.2: The Sponsor reported incorrect meal counts

The finding will be fully and permanently corrected.
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: Position Title:

Name: Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 3: The Sponsor's menus did not meet USDA meal pattern requirements

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 4: The number of attendance days reported by the Sponsor was incorrect

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 5: The number of Supplements claimed exceeded the validated participant days

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.6: The Sponsor did not monitor feeding sites as required

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

DHS staff should check the "Forms" section of the intranet to ensure the use of current versions. Forms may not be altered without prior approval.
Distribution: OIG and CACFP/SFSP as appropriate
HS-3187 (Rev. 11-16)

RDA: 2341
Page 7 of 9

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: _____

Date: / /

Signature of Authorized TDHS Official: _____

Date: / /

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.
4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.
5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.
6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.
7. To be considered for a fair hearing or for a review of written information in lieu of a fair

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:
 - (i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.
 - (ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.
 - (iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.
9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.
10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.
11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.
12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.
13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.
14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.
15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.